

The opinion in support of the decision being entered today is not binding precedent of the Board.

Filed by: Trial Section Motions Panel
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Paper ~~18~~ 21
Filed: December 13, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GEORGE J. STEPNIEWSKI
Junior Party
(U.S. Patent 5,648,066)

v.

PASCAL ARNAUD AND MYRIAM MELLUL
Senior Party,
(U.S. Application 09/049,927).

Patent Interference No. 104,751

Before: SCHAFER, TORCZON and TIERNEY, Administrative Patent Judges.
TIERNEY, Administrative Patent Judge.

JUDGMENT AND RECOMMENDATION
(Pursuant to 37 CFR § 1.662(a) and § 1.659(c))

I. Judgment

Junior Party Stepniewski has requested adverse judgement as to the invention defined by Count 1, the sole count in the interference. (Paper No. 17).

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AND INTERFERENCES**

II. Recommendation

It is recommended that the examiner of Arnaud, U.S. Application 09/049,927 review the Communication (Paper No. 3). As set forth in the Communication, there is a question as to Arnaud's compliance with the written description requirement of 35 U.S.C. § 112, first paragraph for its broadly claimed "non-volatile silicone fluid." Upon a review of the issues raised in the Communication, the examiner should enter any rejection deemed necessary.

Upon consideration of the record, it is:

ORDERED that judgment on priority as to Count 1 (Notice Declaring Interference, Paper No. 1, page 5), the sole count in the interference, is awarded *against* Junior Party Stepniewski.

FURTHER ORDERED that Junior Party Stepniewski is not entitled to a patent containing claims 1-25 of Stepniewski, U.S. Patent 5,648,066.

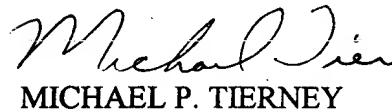
FURTHER ORDERED that a copy of this final decision shall be placed and given a paper number in the file of Stepniewski, U.S. Patent 5,648,066 and Arnaud et al., U.S. Application 09/049,927.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

RECOMMENDED that the examiner review the Communication, Paper No. 3 and make any rejections deemed necessary to ensure Arnaud's compliance with 35 U.S.C. § 112, first paragraph, written description.


RICHARD E. SCHAFER
Administrative Patent Judge


RICHARD TORCZON
Administrative Patent Judge


MICHAEL P. TIERNEY
Administrative Patent Judge

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